THE ELECTRICITY REGULATORY COMMISSIONS (AMENDMENT) BILL, 2001

THE MINISTER OF POWER (SHRI SURESH PRABHU): Sir, I beg to move:

"That the Bill to amend the Electricity Regulatory Commissions Act, 1998, as passed by the Lok Sabha, be taken into consideration.

Sir, in the year 1998, this House had passed the Electricity Regulatory Commissions Bill, 1998. It was then notified subsequently. Now that law is in operation. After the passage of that law, several State Governments have constituted Electricity Regulatory Commissions and they have also been functioning in various States. So, the Regulatory Commissions have passed tariff orders. Those tariff orders have been implemented. Generally, now, we can say that the process of fixation of tariff is free from political interference; it is done in a transparent manner. There is participation of all the stake holders in the fixation of tariffs. Under the Act, it is required that each State would form a regulatory commission. However, it has been noticed that some of the small States and UTs would like to appoint a joint regulatory commission. For such joint regulatory commission to be formed, there is no provision in the present Act. Therefore, an amendment has been introduced to enable the constitution of a joint regulatory commission by smaller States. More than one State Government or UT can come together and form a joint regulatory commission. This Bill was referred to the Standing Committee. The Standing Committee had made several recommendations. Some of the recommendations have been incorporated in the present Bill. The Bill, as recommended by the Standing Committee, was put before the hon. Lok Sabha and the Lok Sabha passed this Bill.

I now beg to move this Bill before this august House. I would request the hon. Members to pass this Bill unanimously because it is only an enabling provision, which will help the smaller States or the UTs to come together and form a joint regulatory commission which will reduce the cost of administration and which will also help the smaller States to pool their resources together and make the joint regulatory commission operative in their respective States. The Government had received requests from several States and UTs, particularly from the North-East. They have requested the

Government to get this Bill passed so that they could set up joint regulatory commissions. I am sure, as the entire House just now resolved unanimously on a sensitive issue, on an issue like this, the entire House give its approval unanimously.

The question was put.

SHRI SANTOSH BAGRODIA (Rajasthan): Mr. Chairman, Sir, I thank for you for this opportunity. The Minister has made the whole thing sound very simple. This Bill is for a specific purpose. But I would like to go a little bit in detail because the Electricity Regulatory Authority Commissions (Amendment) Bill, 1999 is very important. Sir, the Commission itself is a very important factor. Sir, this particular Commission was established in 1998 by an Act of Parliament. What were the functions of this Commission and what has been our experience in the last two or three years? Sir, the purpose of this Commission was to regulate the tariffs of generating companies owned or controlled only by the Central Government. That means it is not regulating the private companies all over the country. So it is only a part of the job which it is supposed to do. Then comes the question of regulating the tariffs of the generating companies other than those owned or controlled by the Central Government if such generating companies have a composite scheme for generation and sale in more than two States. That is just an addition. Clause 3 says, 'to regulate the Inter-State transmission of energy, including tariff of the transmission utility.' Clause 4 says, 'to promote competition, efficiency and economy'. I would like to underline once more for the information of the House, through you, Sir, the words 'to promote competition, efficiency and economy'. I will be happy If the hon. Minister can tell us in his reply whether it has been able to increase the efficiency either in the rates of the power tariff or in the transmission or in the production. What was happening before 1998 and what has happened between 1998 and 2001? Has it economised? Sir, clause 5 says, 'to aid and advise the Central Government in the formulation of a tariff policy which shall be fair to the consumers.' After this Commission has come into existence, the rates of power have been increased not only by one-fold or two-fold, but they have been increased three-fold or four-fold or five-fold all over the country. How is it fair to the consumer? I fail to understand whether the existence of this Commission has really helped the power industry in the country or the consumers in any way. Sir, clause 6 is not important. But clause 7 says, "to arbitrate, adjudicate upon the disputes'. But before this, when we are talking about 'to be fair to the consumers', I would like to say that I have been travelling

all over the country. Other than Gujarat, we have visited practically every State with the Power Committee. Everywhere consumers have complained that the rates have been increased not only from today for the current year but they have also been increased retrospectively for the last five years. The small industry, the large industry and others are paying for what had been five years before. There is no authority in the country which is going to listen to them. How many industries have been closed because of this and how is it fair to the consumers? Sir, the next point which I want to raise is regarding this clause, 'arbitrate, adjudicate upon the disputes involving generation, transmission utility', and I would like to submit that that they are adjudicating the disputes between different companies. But for the information of the House, through you, Sir, I would like to say that the companies which are supposed to be under this system of CERC are NTPC, NHPC, Power Grid and, maybe, one or two more companies, including the Lignite.

All the four companies have moved the courts against the decision of the CERC, and their cases are pending either in the High Courts or in the Supreme Court. So, these companies were forced to go to court on every decision taken by the CERC.

Then, Sir, this Report has already been placed on the table of this House. So, I can quote from this Report. The Secretary, Ministry of Power, had mentioned, "...That this Commission was established to depoliticise..." This Government, in its own wisdom, decided to establish this Commission to depoliticise the things. This means, they will not be responsible. The hon. Minister has just now mentioned that there would be no influence from politicians. But, Mr. Minister, when you go to your constituency your voters will ask you, "Why the tariff has been increased?" I do not know what you are going to tell them. Even as a Minister, can you tell them, "It is the Commission which has increased the tariff. Sorry, I am helpless." Can you say that? Can you say that "I am not responsible for this?" Sir, politicians cannot run away from their responsibilities. So, the whole basis of establishing this Commission was defective.

Another point which the Secretary, Power, had mentioned in the Report was, "...to get private sector participation in India, the main perceived hurdle..." -- And then, he says -- "...I do not know whether it is correct or not..." Even the Secretary does not know whether what he is saying is correct. He says, "...the tariff was fixed artificially low because nobody wants to increase the tariff..." I do not know what kind of a

Secretary he is. I do not know on whom it reflects -- on the Ministry or on the bureaucrats. I do not know on whom it reflects. But this is what he has mentioned in the Report, and the Report is here, with the House. This is what the Secretary of the Ministry of Power had mentioned on 29th March, 2001 -- four months before! For this reason, they want FDI. What has happened to Enron, we all know that. It has gone sick. Nobody wants to touch it. Maybe, billions and billions of dollars have gone down the drain. How much money has gone down the drain? If the entire set-up is closed, let me tell you, not a single penny of those foreigners is lost, but India loses every pie. No foreigner will lose a single penny but it is the Indian money which is lost because the money that has been given to the foreigners in the form of loan has been guaranteed by the Government of India and has been guaranteed by the banks. They have not brought any money here. They have only drawn money from us. What was the purpose of this kind of a Commission and how has it helped Enron? Sir, the last paragraph of the Report says, "...And, if the private sector is to be attracted, then there must have been somebody who is independent of Government, both the political system and the administrative system, to fix the tariff and do other things." I do not know what is the meaning of 'do other things.' But, at least, they fix the tariff. The whole purpose was to fix the tariff, and there should be no administrative system, no bureaucratic control, no political control, but only the private people will come in and fix the tariff. Can you run the country without the Government? This is what is all about the Report and the statements made by the Power Secretary. You will have to go into the details, Mr. Minister. You have to find out. You have to look into it. You have to review the whole thing, whether it is really useful to continue with this kind of a Regulatory Commission. Just now, the hon. Minister has mentioned that because of this Bill -- I fully agree with it -- some small States cannot have their own Regulatory Commissions.

If the whole purpose is only to fix the tariff, why do you have Commissions in every State? You abolish all of them. If at all you want to have, if you are convinced that you have to have it, as a politician you don't want to take any responsibility, if their responsibility is only to fix the tariff, have it by all means. But have it only at the Central level. Or, at the most, have one in the North, one in the East, one in the South, one in the West and one in the Centre. So, have only four or five Regulatory Commissions. They don't have enough work; let me tell you. This is the only work they have done. Tell me, during these three-four years, what work they have done, other than fixing tariffs and going to the courts? Have they been able

to do one single thing successfully pertaining to the purpose for which they were established? Then, what is the use of this kind of a thing? So, you are actually increasing the cost, because something which the Ministry was supposed to do, you have asked some other organization to do it. The Ministry will sit tight. The Ministry will have nothing else to do. Then, why do we need the Power Ministry at all? If somebody else is looking after the electricity set up of the country, you don't need the Power Ministry. We have duplicated the expenses. This is not going to help us. Then, this Commission is not accountable to anybody in the world. They are not accountable to the masses; they are not accountable to Parliament. Parliament had created this authority. Parliament, by its rights, had brought them in. And they say, "Look, we will not come to the Standing Committee; we will not come to the MPs; we will not come to the Government. Nobody can direct us. We are God. We are all in all. We will do what we want to do, and nobody can question us." So, we have to go to the court. If we have to go to the court, then these organizations can go to the court against the decision of the Government also. Why do you need this kind of a separate organization, as a separate department? And, then, you are talking of decreasing the cost. How are you going to justify the decreasing of the cost? The Commission had released orders, covering terms and conditions of the tariff, during December, 2000. There are various orders, dealing with the final decision on availability-based tariffs. I hope, the hon. Minister understands what the availability-based tariff is. But, for the information of the House, I would like to inform that availability-based tariff means, the Commission wants to tax the efficient units of the country. They want to tax the efficient PSUs of the country because, on the private sector, they have no control. If the NTPC is efficient, if the NHPC is efficient, their plant load factor is good, their rates should go down. If the PLF of any unit is bad, their rates should go up. This is the basis on which they have decided; I do not know on what wisdom. And, what is the result of this? They have gone to the court. You have your own plants. Sir, the Government has its own plants to increase the total power availability to the country, probably, by one lakh mega watt by 2012. And out of this, 20,000 MW has to be increased by the NTPC alone. The NTPC has very clearly mentioned all over -- to the court, to the Government, and to our Committee -- that if this system prevails, they cannot bring in the additional 20,000 MW. Probably, they can bring 4,000 or 5,000 MW. What will happen to the shortfall of 15,000 MW? You know what has happened in the last few years. All your plants have failed because the private sector has not,

really, come into existence. If public sector also is not able to produce, or add more capacity, what will happen to the power system in the country? We are having power cuts even in Parliament. The quality of power is bad even in Parliament. There are power breakdowns a number of times. Many things are happening within the Parliament, in this House, because of power failure. If that is the situation, and because of the Commission the production capacity does not go up, who will take the responsibility for this kind of a situation?

Can the Government simply say: "as there was a Commission, we were helpless?" Are you going to say that? Let the Commission come here and answer the point as to why it has come out with the availability-based system. Then, Sir, this is also known as performance-based tariff. If you perform better, you will get less. Nowhere have I heard of it. If I perform better, I should get more; if I perform better, I should get a prize, not a penalty.

Sir, the NTPC has also mentioned that even if the availability-based system is acceptable to them, it deviates from the principles and norms finalised by the National Task Force and fixed in the draft notification dated 7th April, 99. This notification was issued by the Government. In 1998, the Regulatory Commission was created by the Government; and, in 1999, a draft notification was issued by the Government. Then, there is the National Task Force. But the decision..*(Interruptions)*...

MR. CHAIRMAN: Now, you wind up.

SHRI SANTOSH BAGRODIA: I will do it, Sir.

MR. CHAIRMAN: Because, now it is one o'clock. Half-an-hour was allotted to your party. You have taken the full time of your party; I don't mind it. You can continue after lunch.

SHRI V. V. RAGHAVAN (Kerala) : Sir, this is a very important issue.

MR. CHAIRMAN: I agree with you, but let him speak.

SHRI SANTOSH BAGRODIA: Mr. Chairman, Sir, as you know, I am a very disciplined Member. I will stop speaking the moment you ask me to stop.

MR. CHAIRMAN: No; I don't want you to stop.

SHRI SANTOSH BAGRODIA: Do you want me to continue after two o'clock or you want me to conclude before one o'clock? You just tell me and I will follow that.

MR. CHAIRMAN: You must wind up now.

SHRI SANTOSH BAGRODIA: So, I will wind up before one o'clock. Still three-four minutes are left.

Sir, we have asked the Ministry of Power to look into all these aspects. I fully support the Bill. But if there has got to be a regulatory commission -- atleast, two or three small States can have one. I want that even the bigger States should have one. So, there is no question of my not supporting the Bill. As far as this Bill is concerned, I fully support this Bill, but, still, I request the hon. Minister to look into the aspects which I have mentioned, without favouring anybody. I know you are a very fair Minister. I am sure, you will take into account all the aspects which we have mentioned during various discussions as well as the aspects stated in these reports. Please go through these reports; go through the objections which I heve raised. If you look at it from that angle, you will find it worthwhile to continue with this system. Otherwise, be courageous to make such changes as are in the interest of the country. With these words, I conclude. Thank you, very much.

MESSAGE FROM THE LOK SABHA

MR. CHAIRMAN: Now, message from the Lok Sabha.

The Advocates' Welfare Fund Bill, 2001.

THE SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha signed by the Secretary-General of the Lok Sabha:

> "In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Advocates' Welfare Fund Bill, 2001, as passed by Lok Sabha at its sitting held on the 6th August, 2001."

Sir, I lay a copy of the Bill on the Table.

MR. CHAIRMAN: Now, the next speaker is... but, only one minute is left.